

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Michele Thomas et al.

Serial No.: 10/596,574

Filed: June 16, 2006

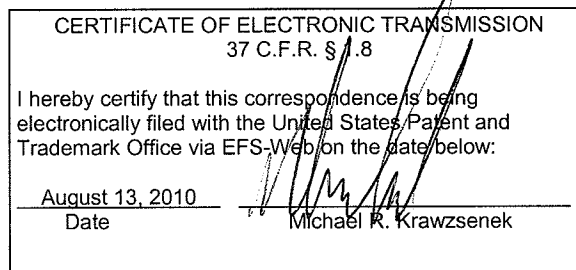
For: OPTICAL ARTICLE COVERED WITH A
VISIBLE-ABSORBING, MULTI-LAYER
ANTI-REFLECTIVE COATING, AND
PRODUCTION METHOD THEREOF

Patent No.: 7,736,742

Issued: June 15, 2010

Atty. Dkt. No.: ESSR:117US

Confirmation No.: 8007



APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Patentees request reconsideration of Patent Term Adjustment (PTA) under 37 C.F.R. §1.705(d). The Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) included with the Issue Notification dated May 26, 2010 indicates a PTA of 812 days. Patentees believe this to be an error and request the PTA to be changed to 918 days.

REMARKS

Patentees note that the Patent Term Adjustment sheet indicates Patent Office delay of 934 days ($573 + 361$) and Applicant delay of 122 ($120 + 2$) days. The entire 122 days of Applicant delay is listed after the mailing of a Notice of Allowance. Fourteen days of Applicant delay were presumably for submission of a paper after the mailing of a Notice of Allowance pursuant to 37 C.F.R. § 1.704(c)(10). Two days of Applicant delay were presumably to offset the incorrect calculation of Patent Office delay. Patentees assert no other delays were made and request Applicant delay be changed from 122 days to 16 days.

Patentees filed a Submission of Foreign Priority Document that was received by the Patent Office on December 17, 2009. The Patent Office mailed an Office Communication on December 30, 2009 acknowledging receipt of priority papers. According to 37 C.F.R. § 1.704(c)(10), the period of adjustment shall be reduced by the lesser of: the number of days from the filing date of the paper and the date of the notice in response to the paper; or four months. Therefore, Applicant delay should be 14 days, or the period of time from December 17, 2009 to December 30, 2009.

Applicants are entitled to patent term adjustment that includes a period of delay of 571 days due to the failure by the Office to mail an action under 35 U.S.C. §132 not later than 14 months after the actual filing date (*i.e.*, by August 19, 2007) (hereinafter "14 Month Delay"). As the Office failed to mail an action under 35 U.S.C. §132 until March 12, 2009, Patentees are entitled to a period of patent term adjustment beginning on the day after the date that is 14 months after the date on which all requirements under 35 U.S.C. 371 are completed, August 20, 2007, and ending on the date of mailing of an action under 35 U.S.C. §132, *i.e.*, March 12, 2009. Accordingly, the period of patent term adjustment due to the 14 Month Delay by the Office is 571 days. The Patent Term Adjustment information available on PAIR indicates 573 days of Patent Office Delay. Presumably,

the two day period of Applicant delay listed as "Adjustment of PTA Calculation by PTO" is to correct the 573 days to 571 days. If the two days of Applicant delay are not for this purpose, Patentees assert the two days of Applicant delay are incorrect.

In addition to the above period of Office Delay and pursuant to 37 CFR §1.703(b), Patentees are entitled to a period of patent term adjustment due to failure of the Office to issue a patent within three years after the date the national stage commenced, *i.e.*, June 19, 2009 (hereinafter "Three Year Delay"). Since the Office failed to issue the above-identified patent until June 15, 2010, Patentees are entitled to a period of patent term adjustment beginning on the day after the date that is 3 years after the filing date of the application, *i.e.*, June 20, 2009, and ending on the date a patent is issued, *i.e.*, June 15, 2010. Accordingly, the period of patent term adjustment due to the Three Year Delay by the Office is 361 days. This period of adjustment is in agreement with the period of Office delay determined by the Patent Office.

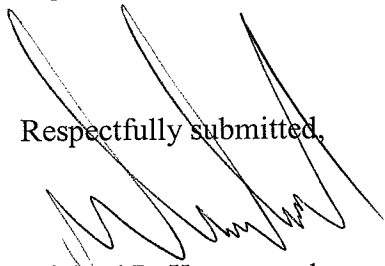
CONCLUSION

In consideration of the events described above, Patentees believe the PTA calculation of 812 days is incorrect. As such, Patentees respectfully request reconsideration of the PTA in the following manner:

- 1) Total PTO delay should be calculated as 932 days;
- 2) Total Applicant delay should be calculated as 14 days; and
- 3) Total PTA should be calculated as 918 days.

The required fee in the amount of \$200.00 in connection with the filing of this paper is being charged to a credit card through EFS-Web concurrently with this submission. The Commissioner is hereby authorized to deduct any underpayment of fees or any additional fees required under 37 C.F.R. §§ 1.16 to 1.21 in connection with the filing of this paper from Fulbright & Jaworski Deposit Account No.: 50-1212/ESSR:117US.

Respectfully submitted,


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